



Ardaman & Associates, Inc.

Geotechnical, Environmental and  
Materials Consultants

December 18, 2018  
File Number: 18-13-0312D

Mosaic Fertilizer, LLC  
13830 Circa Crossing Drive  
Lithia, FL 33547

Attention: Ms. Kacie McCartney  
Environmental Superintendent  
Riverview and Plant City Facilities

Subject: Summary Report for HDPE Geomembrane Liner Repair, Lined West Lower Notch  
Area, Plant City Facility, Hillsborough County, Florida

Ladies and Gentlemen:

As requested, this summary report was prepared to document Construction Quality Assurance (CQA) activities undertaken by Ardaman & Associates, Inc. (Ardaman) for HDPE geomembrane liner repairs to the liner system associated with the lower notch area on the west side of the Sequence I Lined Expansion Area at the Plant City Facility in Hillsborough County, Florida.

During a routine inspection of the gypsum stack system on September 14, 2018 the Mosaic Inspector identified liner damage at the crest of the west slope in the lower notch area. The damage consisted of a six-foot long cut near the anchor trench at the top of the slope. The cause of the liner damage is unknown. We understand that Mosaic provided written notice of the above-described liner damage to the Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA).

The repair work was conducted by Comanco Environmental Corporation (Comanco) on November 6, 2018 at the location shown on the aerial photograph provided on Figure 1. The liner repair activities were inspected by Ardaman to verify and document that the material and placement techniques were acceptable. Select photographs of the repair process are presented in Attachment 1. The repair was made with an extrusion welded patch using automated welding equipment. The patch was fashioned from 60-mil textured liner manufactured by AGRU America. Prior to the start of repair activities, the seamer prepared test strips for the proposed seam and weld type. Samples from the trial welds were tested for peel and shear strength by Comanco in the presence of our field technician.

Our technician observed non-destructive testing of the field weld around the patch performed by Comanco using a vacuum suction box. Defects in the weld identified by non-destructive vacuum box testing were marked and subsequently repaired and retested as needed. Based on our field observations and other information made available to us through the present date, it is our professional opinion that the workmanship associated with the HDPE liner repair is consistent with the intent of the repairs and meets industry standards.

We trust that this summary report of geomembrane liner repairs completed to the Lined West Lower Notch Area meets your immediate needs. If you have any questions or require any additional information, please contact the undersigned at (863) 533 0858.

Sincerely,

**ARDAMAN & ASSOCIATES, INC.**

Florida Certificate of Authorization No. 5950



Thomas J. Keto, P.E.  
Senior Consultant  
Florida License No. 12458

BDR/TJ/K  
Enclosures  
Client Copies: (8)  
File Copy: (1)

Brian D. Runkles, P.E.  
Project Manager

cc: Mr. Joe Michel, Engineer II, Mosaic Fertilizer, LLC  
Mike Messina – EHS Senior Specialist, Mosaic Fertilizer, LLC  
Bill E. Jackson, P.E., Ardaman & Associates, Inc.

[Joe.Michel@mosaicco.com](mailto:Joe.Michel@mosaicco.com)  
[Joel.Messina@mosaicco.com](mailto:Joel.Messina@mosaicco.com)  
[bjackson@ardaman.com](mailto:bjackson@ardaman.com)

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1" = 300'

SOURCE: GOOGLE PRO IMAGE  
PHOTO DATE: MARCH 5, 2018

HDP LINER REPAIR LOCATION  
LATITUDE: 28° 09' 28.1" N  
LONGITUDE: 82° 08' 19.9" W

LOCATION OF LINER REPAIR LOWER WEST NOTCH AREA	
 Ardaman & Associates, Inc. Geotechnical, Environmental and Materials Consultants	
 MOSIAC FERTILIZER, LLC PLANT CITY FACILITY HILLSBOROUGH COUNTY, FLORIDA	
DRAWN BY: <i>802P</i>	CHECKED BY: <i>324</i>
FILE NO: 18-13-0312D	DATE: 12/10/18
APPROVED BY: Thomas J. Leto, P.E.	FIG. NO. 1



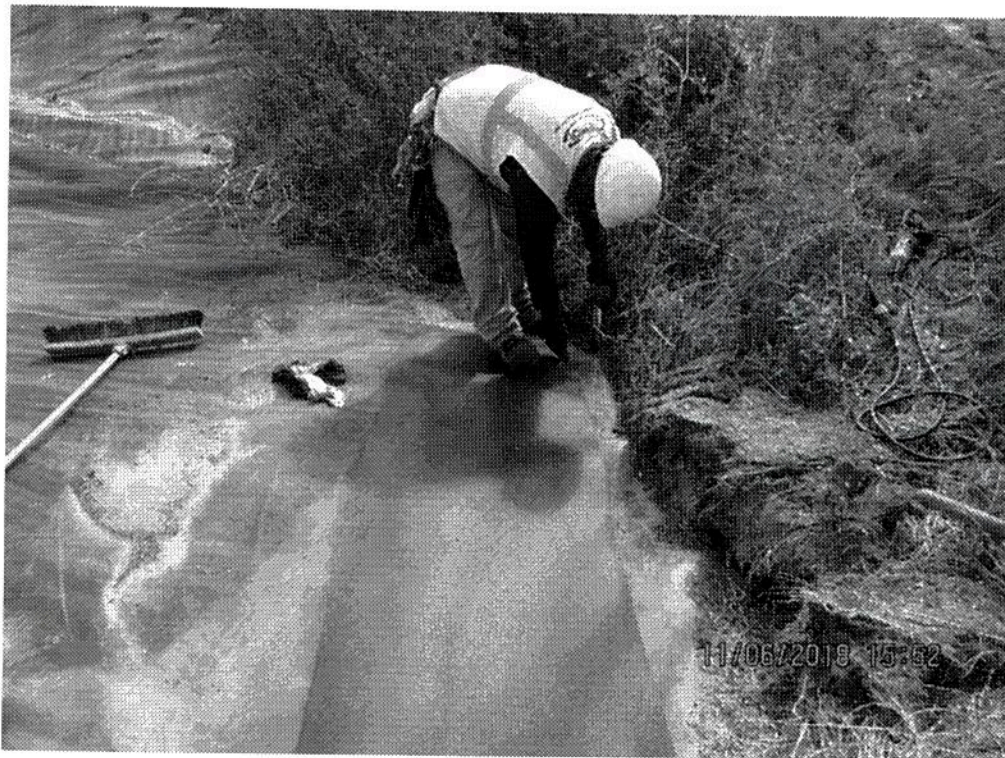
**ATTACHMENT 1**

**HDPE GEOMENBRANE LINER REPAIR PHOTOGRAPHS**





Photograph 1 – View of Liner Damage on Lower West Notch of Sequence I Expansion  
(6-foot Long Cut Along Edge of Anchor Trench)



Photograph 2 – View of Worker Heat Sealing New Patch to Existing Liner Panel



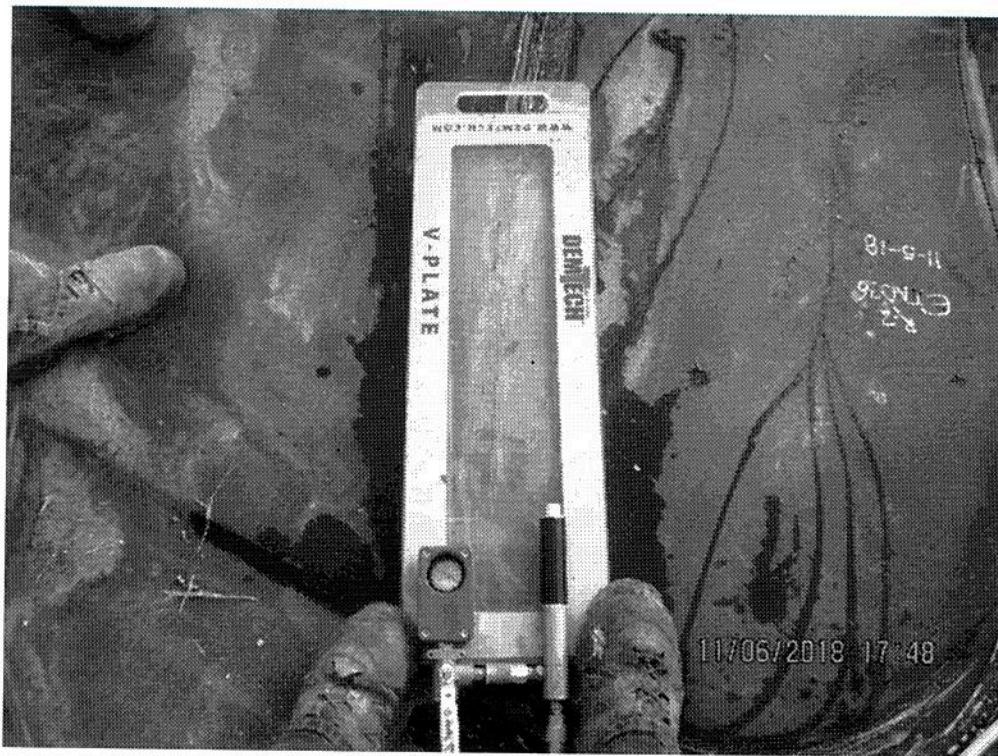


Photograph 3 – Worker Preparing the Patch Edge for Extrusion Welding by Removing Oxidation with an Abrasive Wheel Grinder



Photograph 4 – Liner Seamer Extrusion Welding New Patch Overtop Damaged Liner Panel





Photograph 5 – Non-Destructive Testing of Field Seam Around Newly Installed Patch Using Vacuum Suction Box Equipment



Photograph 6 – View of Completed Liner Repair at Lower West Notch of Sequence I Expansion (see Figure 1)





Ardaman & Associates, Inc.

Geotechnical, Environmental and  
Materials Consultants

December 17, 2018  
File Number: 18-13-0312D

Mosaic Fertilizer, LLC  
13830 Circa Crossing Drive  
Lithia, FL 33547

Attention: Ms. Kacie McCartney  
Environmental Superintendent  
Riverview and Plant City Facilities

Subject: Summary Report for HDPE Geomembrane Liner Repair, Sequence I Expansion  
Stack Liner System, Plant City Facility, Hillsborough County, Florida

Ladies and Gentlemen:

As requested, this summary report was prepared to document Construction Quality Assurance (CQA) activities undertaken by Ardaman & Associates, Inc. (Ardaman) for HDPE geomembrane liner repair located on the shoulder of the access ramp on the east side of the Sequence I Lined Expansion Area at the Plant City Facility in Hillsborough County, Florida.

#### Background Information

On September 11, 2018, during a special, third-party inspection of the gypsum stack system, liner damage was identified on the west shoulder of the east ramp road that provides access to Lined Auxiliary Holding Pond Nos. 1, 2 and 3 on top of the Closed Phosphogypsum (Gypsum) Stack. The damage consisted of various rips and tears observed along an exposed section of liner that was about 6 to 7 feet long. The cause of the liner damage was unknown, but more than likely was a result of roadway grading activities whereby the grading equipment inadvertently ripped a section of liner panel. We understand that Mosaic provided written notice of the above-described liner damage to the Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA) on September 12, 2018.

#### Summary of Repair Activities

The repair work was conducted by Comanco Environmental Corporation (Comanco) on November 8, 2018 at the location shown on the aerial photograph provided on Figure 1. The liner repair activities were inspected by Ardaman to verify and document that the material and placement techniques were acceptable. Select photographs of the repair process are presented in Attachment 1.

The repair was made by first excavating the protective gypsum cover and liner anchor trench material to expose the underlying HDPE liner panel. The exposed liner surface was then brushed clean to allow for observations of the extent of the damage and trace the damage as needed. The damaged section of liner was found to be approximately 20 feet long and was isolated to the leading edge of the anchor trench for the liner system.



After tracking, exposing and cleaning the damaged liner panel, the existing HDPE liner was repaired using an extrusion welded patch fashioned from 60-mil textured liner manufactured by AGRU America.

Our technician visually inspected the field weld around the repair patch was for signs of overheating and observed non-destructive testing of the field weld using vacuum suction box equipment. Defects in the weld identified by non-destructive vacuum box testing were marked and subsequently repaired and retested as needed.

Based our field observations and other information made available to us through the present date, it is our professional opinion that the workmanship associated with the HDPE liner repair is consistent with the intent of the repairs and meets industry standards.

#### Recommendations & Closure

We recommend that the protective gypsum cover overtop the liner panel and associated anchor trench, which currently serves as the ramp road wearing surface, be monitored for surface erosion due to rainfall runoff epochs and that the area be restored as need to maintain a minimum cover thickness of two feet above the liner.

We trust that this summary report of geomembrane liner repairs completed to the primary liner for the Expansion Stack system meets your immediate needs. If you have any questions or require any additional information, please contact the undersigned at (863) 533 0858.

Sincerely,

**ARDAMAN & ASSOCIATES, INC.**

Florida Certificate of Authorization No. 5950

THE FLORIDA BOARD OF PROFESSIONAL ENGINEERS

12458

Thomas J. Leto, P.E.

Senior Consultant

Florida License No. 12458

PROFESSIONAL ENGINEER

BDP/TLIC

Enclosures

Client Copies: (3)

File Copy: (1)

*Brian D. Runkles*

Brian D. Runkles, P.E.  
Project Manager

cc: Mr. Joe Michel, Engineer II, Mosaic Fertilizer, LLC  
Mike Messina – EHS Senior Specialist, Mosaic Fertilizer, LLC  
Bill E. Jackson, P.E., Ardaman & Associates, Inc.

[Joe.Michel@mosaicco.com](mailto:Joe.Michel@mosaicco.com)  
[Joel.Messina@mosaicco.com](mailto:Joel.Messina@mosaicco.com)  
[bjackson@ardaman.com](mailto:bjackson@ardaman.com)

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LINED  
POND NO.2

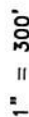
**FORMER CHANNEL  
STACKING AREA**

**CLOSED STACK  
SIDE SLOPE**

ACCESS  
RAMP

**LINER REPAIR**  
**11-8-18**

## PERIMETER DITCH



SOURCE: GOOGLE PRO IMAGE  
PHOTO DATE: MARCH 5, 2018

**HDPE LINER REPAIR LOCATION**  
**LATITUDE: 28° 09' 40.5" N**  
**LONGITUDE: 82° 07' 24.5" W**

LOCATION OF LINER REPAIR  
EAST ACCESS ROAD



**Ardaman & Associates, Inc.**  
Geotechnical, Environmental and Materials  
Consultants



**MOSIAC FERTILIZER, LLC**  
PLANT CITY FACILITY  
HILLSBOROUGH COUNTY, FLORIDA

DRAWN BY: BOP	CHECKED BY: JJA	DATE: 12/10/18
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FILE NO.	APPROVED BY:	FIG. NO.

18-13-0312D	Thomas J. Leto, P.E.	1
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**ATTACHMENT 1**

**HDPE GEOMENBRANE LINER REPAIR PHOTOGRAPHS**





Photograph 1 – View of exposed liner found along anchor trench on east ramp road that provides access to top of closed gypsum stack (see Figure 1)



Photograph 2 – Close-up view of damaged liner identified on exposed section of liner shown in Photograph 1





Photograph 3 – Workers excavating protective cover and anchor trench material to expose the outer limits of the liner damage, looking northerly



Photograph 4 – View of liner damage identified along leading edge of anchor trench turndown (approximately 20 feet long)





Photograph 5 – Workers placing new liner patch material into damaged section of anchor trench, looking northerly

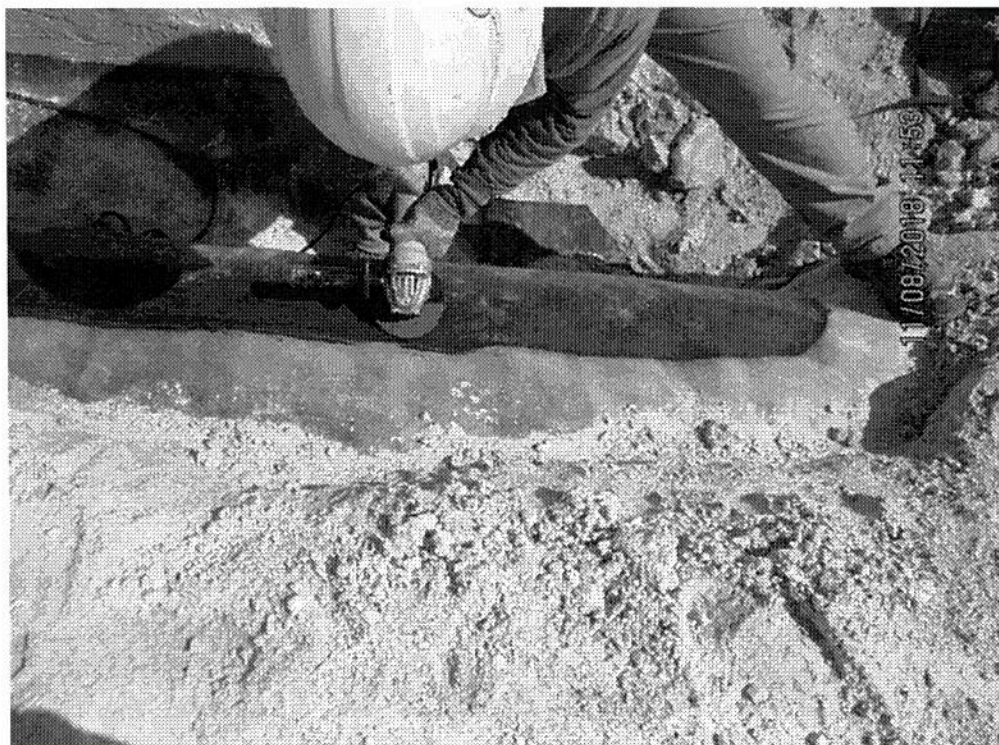


Photograph 6 – Workers shaping and cutting new liner patch material to repair damaged liner panel along anchor trench





Photograph 7 – Workers heat sealing new liner material to existing liner panel in preparation for extrusion weld seam, looking northerly



Photograph 8 – View of worker removing oxidation at edge of seam using an abrasive wheel grinder



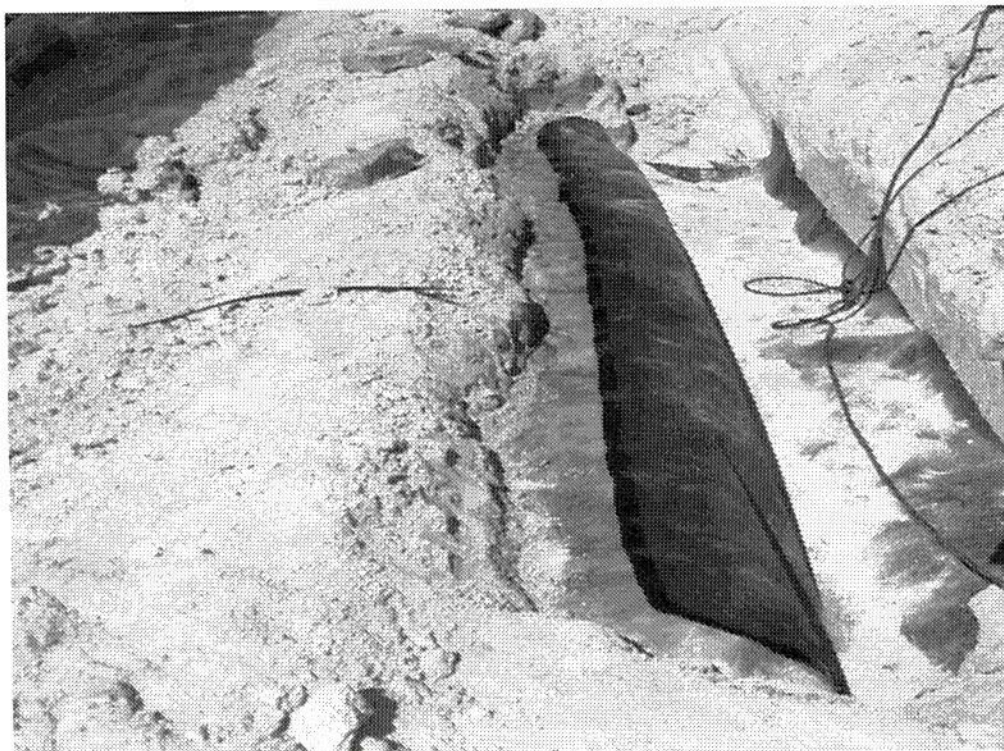


Photograph 9 – Liner seamer extrusion welding new liner material to existing liner panel at to leading edge of anchor trench, looking northerly



Photograph 10 – Worker testing extrusion welded seam for water tightness using vacuum suction box equipment





Photograph 11 – View of completed liner repair patch



Photograph 12 – View of east ramp access road after backfilling repaired liner anchor trench turndown, looking southerly



**BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**IN THE MATTER OF:**

**OGC CASE NO.: 17-1163C**

**MOSAIC FERTILIZER, LLC**  
13830 Circa Crossing Drive  
Lithia, Florida 33547

**DEP Permit Nos.: FL0000078 & FLA177610 /**

**THIRD AMENDMENT TO ORDER GRANTING TEMPORARY DEACTIVATION  
OF PHOSPHOGYPSUM STACK SYSTEM**

**I. STATUTORY AUTHORITY**

The Department of Environmental Protection (Department) issues this Third Amendment to Order<sup>1</sup> (Third Amended Order) under the authority of sections 403.061 and 403.4154 of the

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<sup>1</sup> Pursuant to rule 62-673.600(6), Fla. Admin. Code, on October 31, 2017, Mosaic requested, in writing, approval of a temporary deactivation of the phosphogypsum stack system located at the subject Facility (Plant City phosphogypsum stack system), and requested a determination that the provisions of rule 62-673.600(5), Fla. Admin. Code, which otherwise would require submittal of a closure permit application including a closure plan, not be applied during any approved temporary deactivation period for the Plant City phosphogypsum stack system.

On December 13, 2017, the Department issued an Order Granting Temporary Deactivation of Phosphogypsum Stack System, OGC Case No. 17-1163 (Order) to Mosaic, in response to the October 31, 2017, request and additional information provided by Mosaic on measures to be taken to ensure that the Plant City phosphogypsum stack system will pose no significant threat to the public health and the environment during the temporary deactivation. Pursuant to the provisions of rule 62-673.600(6), Fla. Admin. Code, the Department determined that the requirements of rule 62-673.600(5), Fla. Admin. Code, shall not apply during the authorized deactivation period as specified by the Order. The Order required Mosaic to perform specific tasks to assure that the Plant City phosphogypsum stack system will continue to maintain compliance with applicable rules and operational requirements, including maintaining sufficient surge capacity in compliance with the water balance targets specified by rule 62-672.780, Fla. Admin. Code. The Order required Mosaic to submit a closure permit application at least 30 days prior to the end of the ending of the temporary deactivation unless Mosaic made a



Florida Statutes (Fla. Stat.) and rule 62-673.600, Florida Administrative Code (Fla. Admin. Code). The Third Amended Order, as issued hereunder, shall supersede and replace in its entirety the Second Amended Order.

## II. FINDINGS OF FACT

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapter 403, Fla. Stat., and the rules promulgated and authorized in Title 62, Fla. Admin. Code. The Department has jurisdiction over the matters addressed in this Third Amended Order, and through it, has diligently enforced and will continue to diligently enforce such matters.

2. Mosaic Fertilizer, LLC (Mosaic) owns and operates a phosphate fertilizer manufacturing plant, related facilities, and the phosphogypsum stack system located at 660 East County Line Road in Plant City, Florida (Facility).

3. Mosaic is permitted to operate this Facility under Department permit numbers FL0000078 and FLA177610 (collectively the State Permits); Consent Order OGC Case No. 87-0750, having an effective date of September 30, 1987 (the State Consent Order), and the consent decree entered on September 28, 2010, with CF Industries, Inc. (CFI) in the United States District Court for the Middle District of Florida in United States of America and Florida Department of Environmental Protection v. CF Industries, Inc., Civil Action No. 8:10-cv-01756-SCB-EAJ, and the Modification of Consent Decree entered on March 5, 2014, to effectuate transfer of CFI's

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decision to restart stacking operations or requested an additional temporary deactivation period in accordance with rule 62-673.600(6), Fla. Admin. Code.

In accordance with the Order, Mosaic applied for and received a modification of State permit FL0000078 on April 3, 2018, to authorize construction of a Contingency Auxiliary Holding Pond (AHP) and the associated Single Lime Treatment (SLT) system. The Contingency AHP provides a total design capacity of 794 million gallons for treated water storage including two internal lined compartments designated as the, "West Cell," and the "East Cell," with design capacities of 291 and 503 million gallons, respectively. The Contingency AHP and SLT system were proposed to provide sufficient additional surge capacity to safely store and manage process water at the Facility based upon a then projected water balance scenario for the duration of the Order. On May 16, 2018, and September 28, 2018, the Order was amended (First Amended Order and Second Amended Order, respectively) to change the date by which the Contingency AHP and SLT system were required to be available for operation ultimately from June 1, 2018, to December 31, 2018, for the West Cell and to April 30, 2019, for the East Cell which provides the remainder of the AHP design storage capacity, based on continuing weather and other construction related delays, and review of the expedited process water transfers and additional steps that were implemented at the Facility to provide sufficient surge capacity to otherwise meet the to meet the June 1 and October 1 water balance targets specified by rule 62-672.780, Fla. Admin. Code.



obligations under the consent decree to Mosaic Fertilizer, LLC (the Mosaic Plant City Consent Decree).

4. On November 13, 2018, Mosaic requested, in writing, additional temporary deactivation of the phosphogypsum stack system at the Facility. The November 13, 2018, temporary deactivation submittal (Request) requested an additional 12-month period, commencing on December 15, 2018, and provided information on the measures that have been taken and which are to be taken to assure that the phosphogypsum stack system will pose no significant threat to the public health and the environment during the requested temporary deactivation period. Mosaic's Request also provided business confidential information on the economic conditions justifying an additional temporary deactivation as required pursuant to rule 62-673.600(6), Fla. Admin. Code.

5. The Department, in conjunction with staff from the Environmental Protection Commission of Hillsborough County, has most recently performed an onsite compliance evaluation inspection for the Facility, including a review of progress implementing the requirement of the Order as amended, on November 26, 2018.

6. Construction of the lined Contingency AHP has continued as required under the Order; however, Department observations on November 26, 2018, of weather related construction conditions and ongoing dewatering activities indicate that the East Cell may not be completed by the current scheduled date of December 31, 2018. In order to maintain sufficient surge capacity, Mosaic has continued expedited process water transfers from the Facility, along with performing additional dike construction and other maintenance activities within the Facility's phosphogypsum stack system. Department records indicate that over 357.47 million gallons of process water have been transferred from the Facility as of November 30, 2018, pursuant to the requirements of the Order.

7. The most recent November 2018, certified water balance projection for the Facility indicates that process water levels are projected to remain below the "action plan" trigger, and are projected to meet the June 1 and October 1 water balance targets specified by rule 62-672.780, Fla. Admin. Code, during the 2019 calendar year, even when applying the rule's extreme rainfall scenario with the 100-year September rainfall event. Rule 62-672.780(9), Fla. Admin. Code establishes a June 1 water balance target of at least 16.25 inches of rainfall run-off in order to provide increased surge capacity at the beginning of the annual rainy season.



### III. ORDER

Based on the foregoing findings of fact,

#### **IT IS ORDERED,**

8. Mosaic is hereby granted approval for additional temporary deactivation of the Plant City phosphogypsum stack system, commencing on December 15, 2018, and ending on July 31, 2019, subject to the following conditions:

##### Closure Plan Requirements

a. Rule 62-673.600(5), Fla. Admin. Code, shall not apply during the period of the approved deactivation period granted herein.

b. If Mosaic determines that it will restart operations for the production of phosphoric acid and begin active placement of the resulting phosphogypsum within the Plant City phosphogypsum stack system, Mosaic shall notify the Department of such determination within 30 days of such a decision and the associated planned timeframes for restarting phosphogypsum stack system operations at the Plant City facility.

c. At least 30 days prior to the end of the temporary deactivation as granted herein; unless the Department is notified as required in paragraph 8.b. above, or unless a subsequent request for an additional temporary deactivation period has been submitted to the Department in accordance with rule 62-673.600(6), Fla. Admin. Code; Mosaic shall submit a closure permit application including a closure plan to the Department meeting the requirements as set forth in rule 62-673.610, Fla. Admin. Code.

##### Monitoring and Reporting

d. Mosaic shall provide monitoring and reporting, as set forth below during the approved deactivation period granted herein, in addition to environmental monitoring and reporting as required under the State Permits and the Mosaic Plant City Consent Decree.

i. Mosaic shall submit the water balance summary sheets otherwise required in accordance with rule 62-672.780(8)(c), Fla. Admin. Code, so that the reports will include the process water amounts transferred or otherwise removed from the system, water level elevations, volume of ponded process water, and available event, system, and maximum potential storage capacities for the Plant City phosphogypsum stack system and for each separate impoundment or compartment therein as applicable, where the storage capacities shall be



reported in acre feet, million gallons (MM Gal), and inches of rainfall runoff, on at least a weekly frequency on Tuesday of each week.

ii. Mosaic shall, monthly by the 15<sup>th</sup> of each month, provide a written 12 Month Rolling Water Balance Report on the projected changes in process water inventory and associated storage capacities that would occur, and the recommended process water management or treatment capacities that would be required to safely accommodate normal rainfall and the rainfall input quantities specified for the Year 1 extreme rainfall scenario, as described in rule 62-672.780(9), Fla. Admin. Code, and applied during the next 12 month period. The 12 Month Rolling Water Balance Report shall be certified by a qualified engineer licensed to practice in the State of Florida with experience in water management plans and the construction and operation of phosphogypsum stacks in accordance with rule 62-672.780, Fla. Admin. Code. The 12-month Water Balance Report shall incorporate any changes in water management needed to accommodate the management of recovered groundwater under the State Consent Order, as projected by an analysis of recovery well operations performed by a third-party engineer.

Periodic Inspections and Surveys

e. Mosaic shall provide periodic inspections and surveys, as set forth below, during the approved deactivation period granted herein, in addition to inspections and reporting as required under the State Permits, rules 62-672.670 and 62-672.770, Fla. Admin. Code, and the Mosaic Plant City Consent Decree.

i. The Plant City phosphogypsum stack system, including perimeter earthen dikes, shall be inspected at least monthly (once per month) by a qualified engineer, either licensed or working under the supervision of an engineer licensed to practice in the State of Florida with experience in the field of construction and operation of perimeter earthen dikes and phosphogypsum stack systems.

ii. The Plant City phosphogypsum stack system, including perimeter earthen dikes, shall be inspected at least semi-annually (once per six-month period) by a third-party engineer licensed to practice in the State of Florida with experience in the field of construction and operation of perimeter earthen dikes and phosphogypsum stack systems.

iii. Surveys of the earthen and gypsum dike systems, and associated water control structures, at the Plant City phosphogypsum stack system shall be performed at least quarterly (once during every three-month period), by a professional surveyor and mapper



licensed to practice in the State of Florida, to identify any areas that need to be raised, and to monitor changes in storage capacities and areas of settlement;

iv. Mosaic shall provide a report to the Department, covering the December 15, 2018, through June 14, 2019, time period, summarizing monthly engineering inspections, and including the most recent third-party engineer inspections results, along with any recommendations and corrective measures taken or to be taken based on the third-party or qualified engineer inspections. The report shall also include the June 1, 2019, available storage capacities for process water and treated water at the Facility, including the rainfall storage capacity for the Facility's phosphogypsum stack system, in MM Gal and inches of rainfall runoff, and the available storage capacities for compartments of the Contingency AHP; and the most recent survey results along with any plans needed to mitigate areas of settlement to maintain or increase such storage capacities. The report shall be submitted to the Department for review no later than June 28, 2019.

Process Water Management Operations

f. Mosaic shall maintain the operational capacity to continue performing process water transfers from the Plant City phosphogypsum stack system to one or more of the following Mosaic Florida phosphogypsum stack system facilities under this Order at minimum average transfer rates as further determined in accordance with paragraph 8.h. below;

i. Mosaic Bartow Facility (Facility ID No. FL0001589);  
ii. Mosaic Green Bay Facility (Facility ID No. FL0000752); and  
iii. Mosaic New Wales Facility (Facility IDs No. FL0036421 and FL0178527).

iv. Process water transfers from the Plant City phosphogypsum stack system hereunder shall be transferred only to the permitted phosphogypsum stack systems as identified herein. Any subsequent process water transfers to the Green Bay regional holding pond shall only be done in accordance with applicable wastewater permit requirements issued in accordance with chapters 62-620, 62-672, and 62-673, Fla. Admin. Code.

g. Mosaic shall undertake the transfer activities described in paragraph 8.f. in accordance with the following requirements:



- i. Mosaic shall comply with all requirements in any permits, including any closure permits, issued by FDEP.
- ii. Mosaic shall comply with all requirements for the transfer of process water from the Plant City facility to the Bartow, Green Bay or New Wales facilities in accordance with FDEP Wastewater Permit Nos. FL0001589, FL0036421, or FL0000752 pending or in effect as of the effective date of this Order, and Mosaic shall comply with all requirements as may be issued or revised by FDEP for such transfer and reuse/use.
- iii. All loading of tanker trucks at the Plant City facility shall take place at loading bays in areas that are covered, curbed and contained, and that return any spillage via sump to the Plant City phosphogypsum stack system.
- iv. Mosaic shall utilize a unified truck tank designed to match its unified loading apparatus (tire chalk, drop down hose and connector, valves, pipes, pump operator remote start/driver acknowledgement screen, flow measurement, shipping document, etc.) to minimize load time and maximize the safety and environmental protectiveness of the loading process.
- v. Mosaic shall ensure that the transportation of the materials from the Plant City facility to the Bartow, Green Bay or New Wales facilities is undertaken in accordance with all applicable requirements of the United States Department of Transportation for the transport of hazardous materials found at 49 C.F.R. Parts 171- 179, including all applicable requirements of the Hazardous Materials Transportation Act of 1975, and the regulations thereunder, including the requirements for Class 8—Corrosives.
- vi. Mosaic shall maintain daily records of the quantity of materials transported under the terms of this Order at the Plant City facility, and shall maintain daily records, of the quantity of materials received under the terms of this Order at any receiving phosphogypsum stack system, at such receiving system or systems. All such records shall be made available to the Department upon request.
- vii. Mosaic shall ensure that the unloading of the materials into the phosphogypsum stack system at the Bartow, Green Bay or New Wales facilities is undertaken in



a manner that prevents the likelihood of any spills. In the event of any unauthorized spills or releases from the unloading of the materials into the approved receiving phosphogypsum stack systems, Mosaic shall record the incident and track response actions for any such spill using Mosaic's AON System or equivalent in a manner consistent with applicable state spill reporting and notice requirements and with the requirements of the Mosaic Plant City Consent Decree.

viii. In the event the Department determines that the process water transfer activities described in paragraph 8.f. create or contribute to an imminent hazard, Mosaic shall cease or modify such activities pursuant to any action taken by the Department to abate or substantially reduce any imminent hazard in accordance with sections 403.4154 or 403.726, Fla. Stat.

h. Prior to or on the first day of the calendar month following the submittal of each 12-Month Rolling Water Balance Report as required herein, Mosaic shall adjust the minimum average water removal rate based on the uniform average process water removal rate recommended therein for process water transfers and other approved water management operations safely accommodating projected rainfall during the projected 12-month period. The process water removal rate shall also consider the available storage capacities of the Contingency AHP, and the receiving facilities so that they will also continue to comply with the requirements of rule 62-672.780, Fla. Admin. Code. Mosaic shall perform process water transfer and other approved water management operations so that the cumulative volume removed during any three consecutive monthly periods shall meet or exceed the minimum cumulative water removal volume as calculated hereunder. For the purposes of calculating the required minimum cumulative removal volume hereunder, Mosaic shall calculate each monthly volume based on the applicable minimum average process water removal rate for the month, and applying the new rate recommended from each subsequent monthly 12-Month Rolling Water Balance Report as the applicable rate for the subsequent monthly calendar period following Mosaic's submittal of the corresponding water balance report. In any event where the Department notifies Mosaic in writing that it does not approve a recommended uniform average process water transfer rate, Mosaic shall continue or resume removing process water from the Plant City phosphogypsum stack system at the minimum average transfer rate that was last approved by the Department, until such time that the Department approves, in writing, an alternate process water transfer rate.



i. In order to timely complete contingency water management measures in the event of extreme rainfall conditions at the Plant City phosphogypsum stack system during or following the temporary deactivation period approved herein, and to provide environmental protection at least as protective as afforded by the permitted operating phosphogypsum stack liner requirements, Mosaic shall:

i. complete the construction of the West Cell of the Contingency Auxiliary Holding Pond (Contingency AHP), as authorized by modification of State permit FL0000078 on April 3, 2018, so that it may be available for operation to begin receiving treated process water on or before February 15, 2019.

ii. complete the construction of the East Cell of the Contingency AHP, as authorized by modification of State permit FL0000078 on April 3, 2018, so that it may be available for operation to begin receiving treated process water on or before June 1, 2019.

iii. utilize the services of a qualified third-party engineer, licensed to practice in the State of Florida, who shall assess adequacy of the Contingency AHP site, design the impoundment and any internal compartments, oversee the construction, and submit a certificate of completion of construction (COC), including as built design drawings to the Department, for review. The third-party engineer shall also identify specific operational, monitoring and inspection criteria to ensure safe operating conditions, and include appropriate equipment to monitor and maintain the integrity of the impoundment.

9. Nothing in this Order shall be construed to relieve Mosaic from any obligation to acquire permits, licenses, certificates, or other authorizations, from any applicable local, state or federal regulatory agencies, that may be needed or advisable prior to construction or operation of the Contingency AHP. The authorization to construct the impoundments as described above does not constitute a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this Order, as necessary, prior to the commencement of construction. Mosaic shall make all reasonable efforts to obtain such permits or revisions as set forth herein.

#### **IV. NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the



deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- a. The name and address of each agency affected and each agency's file or identification number, if known;
- b. The name, address, any email address, any facsimile number, and telephone number of the petitioner; the name, address, email address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- c. A statement of when and how the petitioner received notice of the agency decision;
- d. A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- e. A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- f. A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- g. A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.



#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

#### Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [agency\\_clerk@dep.state.fl.us](mailto:agency_clerk@dep.state.fl.us), before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### Mediation

Mediation is not available in this proceeding.

The files associated with this order are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays at the Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, and online at <https://depedms.dep.state.fl.us/Oculus/servlet/login>. (Public Users may use the Public Oculus Login and search under Catalog: Mining & Minerals Regulation; Profile: Discovery\_Compliance, and Facility-Site ID MMR\_FL0000078.)



Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel at 3900 Commonwealth Boulevard, MS 35, Tallahassee, FL, 32399-3000 or at [agency\\_clerk@dep.state.fl.us](mailto:agency_clerk@dep.state.fl.us), and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

DONE AND ORDERED on this 14th day of December 2018 in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION



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John A. Coates, P.E.  
Mining and Minerals Programs

Filed, on this date, pursuant to section 120.52, Fla. Stat., with the designated Department Clerk, receipt of which is hereby acknowledged.



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Clerk

December 14, 2018  
Date

Copies furnished to:  
Lea Crandall, Agency Clerk  
Mail Station 35





Mosaic Fertilizer, LLC  
13830 Circa Crossing Drive  
Lithia, Florida 33547  
www.mosaicco.com

Tel 863-800-9285  
Fax 863-534-9699  
Kristi.Farrell@mosaicco.com

December 12, 2018

Via Email

Alan Annicella and Joan Redleaf Durbin  
US EPA  
10<sup>th</sup> Floor RCRA Front Office  
61 Forsyth St, SW  
Atlanta, GA 30303

Van Housman and Bethany Russell  
Office of Civil Enforcement  
U.S. EPA  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Tim Bahr, Administrator  
Permitting and Compliance Assistance Program  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

Elsa Potts, Administrator  
Industrial Wastewater Program  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

**RE: MOSAIC FERTILIZER, LLC – Bartow**  
**Notification under Chapter 62-672.770(6), FAC and Appendix 1 of Consent**  
**Decree in the matter of *United States et al. v. Mosaic Fertilizer*, Case No.**  
**8:15-cv-02286-JDW-TBM**

Ladies and Gentlemen,

This serves as both the initial notice and follow-up report of the conditions observed and actions taken or to be taken pursuant to Appendix 1 to the consent decree and regulations referenced above.

During a routine site inspection on December 12, 2018, Mosaic Fertilizer observed a crack on the exterior upper slope of the south phosphogypsum stack. The crack is approximately 6 inches



wide and extends downslope for approximately 100 feet. Mosaic promptly responded, although there does not appear to be an immediate risk to the environment.

The area will be cleaned and repaired. Mosaic will provide confirmation once those efforts are complete. In the event any additional conditions are observed during the remainder of the inspection or repair process, these will also be repaired.

Prior to this notice, Mosaic communicated this information to Vishwas Sathe of the Florida Department of Environmental Protection.

If you have any questions or require any additional information please contact me at [kristi.farrell@mosaicco.com](mailto:kristi.farrell@mosaicco.com)

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristi Farrell".

Kristi Farrell, P.E.  
Manager, Environmental Dept.

CC:

J. Coates – FDEP

V. Sathe – FDEP

J. Dregne – for EPA

P. Kane – Mosaic

E. Fredere - Mosaic

D. Jellerson – Mosaic

P. van der Voorn – Mosaic





## Ardaman & Associates, Inc.

Geotechnical, Environmental and  
Materials Consultants

November 30, 2018  
File Number: 18-13-0020

Mosaic Fertilizer, LLC  
13830 Circa Crossing Drive  
Lithia, FL 33547

Attention: Mr. Stephen "Britt" Watson, P.E.  
Engineer Senior – Gypsum (Riverview Facility)

Subject: Summary Report for HDPE Geomembrane Liner Repair, Expansion Stack Liner System, Riverview Facility, Hillsborough County, Florida

Ladies and Gentlemen:

As requested, this summary report was prepared to document Construction Quality Assurance (CQA) activities undertaken by Ardaman & Associates, Inc. (Ardaman) for HDPE geomembrane liner repair located on the shoulder of the access ramp on the west side of the Expansion Stack at the Riverview Facility in Hillsborough County, Florida.

### Background Information

During a routine inspection of the gypsum stack system on October 22, 2018 the Mosaic Inspector identified liner damage on the east shoulder of the ramp road that provides access to the southwest corner of the North Gypsum Stack. The damage consisted of a 2-foot wide by 3-foot long tear near the anchor trench along the ramp road. The liner damage was purportedly caused by roadway grading activities whereby the motor grader blade inadvertently ripped a section of liner panel. We understand that Mosaic provided written notice of the above-described liner damage to the Florida Department of Environmental Protection (FDEP) and the Environmental Protection Agency (EPA) on October 23, 2018.

### Summary of Repair Activities

The repair work was conducted by Comanco Environmental Corporation (Comanco) on November 8, 2018 at the location shown on the aerial photograph provided on Figure 1. The liner repair activities were inspected by Ardaman to verify and document that the material and placement techniques were acceptable. Select photographs of the repair process are presented in Attachment 1.

The repair was made by first excavating the protective gypsum cover to expose the underlying HDPE liner panel. The exposed liner surface was then brushed and washed clean to allow for observations of the extent of the damage and trace the damage as needed. After tracking, exposing and cleaning the damaged liner panel, the 60-mil textured HDPE liner was repaired using a 3-foot wide by 5-foot long elliptical-shaped patch fashioned from 60-mil textured liner manufactured by GSE Environmental. Extrusion welding techniques were employed, a trial weld was performed, samples from the trial weld were tested for peel and shear strength, and the field weld was visually inspected for signs of overheating. Our technician also observed non-destructive testing of the field weld using vacuum suction box equipment. Defects in the weld



identified by non-destructive vacuum box testing were marked and subsequently repaired and retested as needed.

Based on our field observations and other information made available to us through the present date, it is our professional opinion that the workmanship associated with the HDPE liner repair is consistent with the intent of the repairs and meets industry standards.

#### Recommendations & Closure

We recommend that the protective gypsum cover overtop the liner panel, which currently serves as the ramp road wearing surface, be restored to a minimum thickness of two feet. Furthermore, we recommend that above ground warning signs be posted in a "line-of-sight" fashion along the leading edge of the anchor trench to alert those who might be working in the area of the presence and location of the buried liner system.

We trust that this summary report of geomembrane liner repairs completed to the primary liner for the Expansion Stack system meets your immediate needs. If you have any questions or require any additional information, please contact the undersigned at (863) 533 0858.

Sincerely,

**ARDAMAN & ASSOCIATES, INC.**

Florida Certificate of Authorization No. 5950



BDR:JS

Enclosures

Client Copies: (3)

File Copy: (1)

A handwritten signature in black ink that reads "Brian D. Runkles".

Brian D. Runkles, P.E.  
Project Manager

cc: William "Bill" Rupp, Mosaic Fertilizer, LLC  
Kacie McCartney, Mosaic Fertilizer, LLC  
Ashraf H. Riad, Ph.D., P.E., Ardaman & Associates, Inc.

[William.Rupp@mosaicco.com](mailto:William.Rupp@mosaicco.com)  
[Kacie.McCartney@mosaicco.com](mailto:Kacie.McCartney@mosaicco.com)  
[ariad@ardaman.com](mailto:ariad@ardaman.com)

R:\barlow jobs\2018 Jobs\MOSAIC FERTILIZER, LLC 18-0020 MOSAIC Miscellaneous Liner Repairs MOS-RV Hillsborough Co (Corp Sister Folder)  
Liner Repair 110818 18-0020 HDPE Liner Repair Summary Letter 110817.docx







1" = 800'

SOURCE: GOOGLE PRO IMAGE  
PHOTO DATE: MARCH 15, 2018

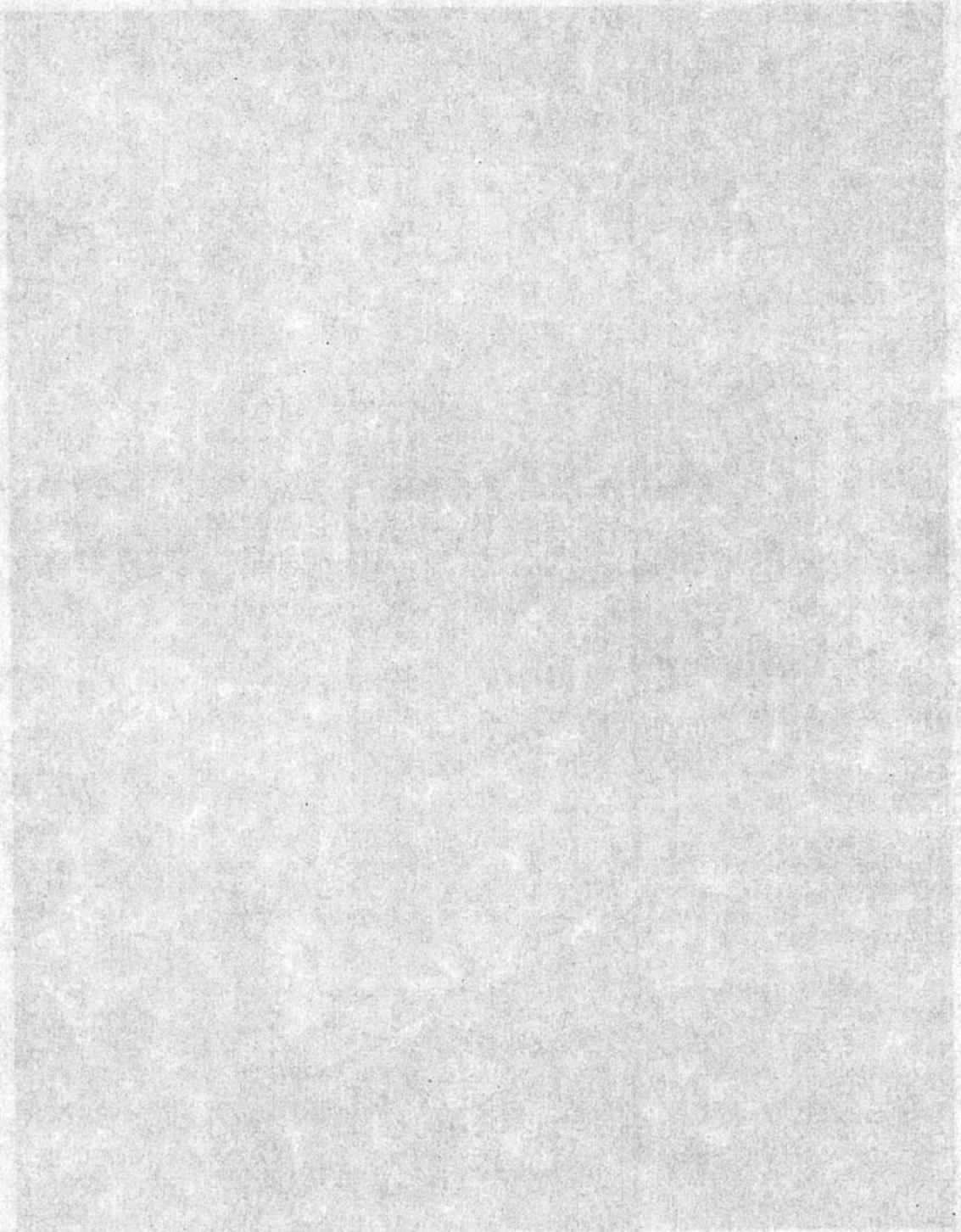
HDP E LINER REPAIR LOCATION  
LATITUDE: 27° 52' 51.2" N  
LONGITUDE: 82° 23' 02.3" W

LOCATION OF LINER REPAIR EXPANSION STACK SYSTEM			
 <b>Ardaman &amp; Associates, Inc.</b> Geotechnical, Environmental and Materials Consultants			
 <b>MOSIAC FERTILIZER, LLC</b> NEW WALES FACILITY POLK COUNTY, FLORIDA			
DRAWN BY: JZP	CHECKED BY: JZP	DATE: 11/20/18	FIG NO: 1
FILE NO: 18-13-0020	APPROVED BY: Thomas J. Leto, P.E.		



**ATTACHMENT 1**

**HDPE GEOMENBRANE LINER REPAIR PHOTOGRAPHS**







Photograph 1 – View of liner damage found along shoulder of the access ramp on west side of the Expansion Stack (see Figure 1)



Photograph 2 – Workers washing liner panel to expose the outer limits of the damage, looking southerly





Photograph 3 – Liner seamer performing trial weld for the proposed seam and weld type (e.g. textured-to-textured liner / extrusion weld)



Photograph 4 – Liner Contractor performing peel and shear strength tests on trial weld start-up test strips





Photograph 5 – Worker shaping and cutting new patch to repair damaged liner panel, looking southerly



Photograph 6 – Worker heat sealing new liner material to existing liner panel in preparation for extrusion weld seam, looking southerly





Photograph 7 – Worker using an abrasive wheel grinder to remove oxidation around edge of new patch



Photograph 8 – Liner seamer extrusion welding new liner material to existing liner panel adjacent to leading edge of anchor trench





Photograph 9 – Non-destructive testing of field seam around newly installed patch using vacuum suction box equipment



Photograph 10 – View of completed liner repair (leading edge of liner anchor trench and ramp road on right side of photograph), looking southerly







## Kono, Michiko

---

**From:** Jagiella, Diana <Diana.Jagiella@mosaicco.com>  
**Sent:** Thursday, December 20, 2018 11:20 AM  
**To:** Kono, Michiko  
**Cc:** White, Erika; Timsina, Gopal  
**Subject:** RE: Mosaic New Wales - Proposed Supplemental Environmental Project  
**Attachments:** ATT00001.txt

Michi, the proposal I sent via email yesterday was intended as our proposal. Are you asking that we submit our top option as the SEP proposal? Thanks, Diana



**Diana M Jagiella | Vice President, Chief Compliance Officer**  
The Mosaic Company | 3033 Campus Drive | #E490 | Plymouth, MN 55441  
Ph: 763.577.2784 | C: 763.226.4278 | E: [diana.jagiella@mosaicco.com](mailto:diana.jagiella@mosaicco.com)

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**Cc:** White, Erika <White.Erika@epa.gov>; Timsina, Gopal <Timsina.Gopal@epa.gov>  
**Subject:** Mosaic New Wales - Proposed Supplemental Environmental Project

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For Settlement Purposes –

Diana – Can Mosaic go ahead and submit a SEP proposal for settlement? FYI - I am in the office today and then will be out through Jan. 1.

If the proposal is sent via email, would you please copy Erika White and Gopal Timsina?

We'd like to get a SEP proposal by tomorrow, or by Tues. Jan. 8, 2019. If Mosaic needs more time, please let me know.

Thank you.

Have a good holiday season.

Michi  
(404) 562-9558







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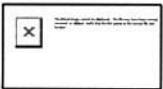
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**From:** Kono, Michiko  
**Sent:** Thursday, December 20, 2018 11:45 AM  
**To:** 'Jagiella, Diana'  
**Cc:** White, Erika; Timsina, Gopal  
**Subject:** RE: Mosaic New Wales - Proposed Supplemental Environmental Project

Thank you for your email. If the company is submitting the 3<sup>rd</sup> option as the SEP proposal, we request copies of the quotes for the equipment supplies. Also, we'd like to let you know as an FYI that Mosaic may want to refer to EPA's summary letter regarding certifications that the company would need to make regarding a SEP.

**From:** Jagiella, Diana <Diana.Jagiella@mosaicco.com>  
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**To:** Kono, Michiko <Kono.Michiko@epa.gov>  
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Thank you for the clarification Michi. I have not been in my office – I am at one of the plants today so I did not hear your message. I will get a response to you on the 3<sup>rd</sup> option we submitted. Diana



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We reviewed the first two projects on the list and determined that they could not be approved under EPA's SEP Policy. I left you a voice mail with our thoughts yesterday.

The third project looks approvable to us and would be subject to EPA management approval. Is Mosaic submitting the third project involving purchase and donation of equipment supplies to Polk County Fire and Rescue as a SEP proposal? Thanks for clarifying.

If Mosaic is submitting that project as the SEP project, we may have additional questions. For example, would you want \$50,000 in the CAFO as the SEP cost?

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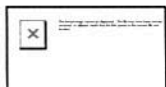
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Ph: 763.577.2784 | C: 763.226.4278 | E: [diana.jagiella@mosaicco.com](mailto:diana.jagiella@mosaicco.com)

**From:** Kono, Michiko [<mailto:Kono.Michiko@epa.gov>]  
**Sent:** Thursday, December 20, 2018 10:18 AM  
**To:** Jagiella, Diana M - Plymouth <[Diana.Jagiella@mosaicco.com](mailto:Diana.Jagiella@mosaicco.com)>  
**Cc:** White, Erika <[White.Erika@epa.gov](mailto:White.Erika@epa.gov)>; Timsina, Gopal <[Timsina.Gopal@epa.gov](mailto:Timsina.Gopal@epa.gov)>  
**Subject:** Mosaic New Wales - Proposed Supplemental Environmental Project

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CAUTION: External Email.

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For Settlement Purposes –



Diana – Can Mosaic go ahead and submit a SEP proposal for settlement? FYI - I am in the office today and then will be out through Jan. 1.

If the proposal is sent via email, would you please copy Erika White and Gopal Timsina?

We'd like to get a SEP proposal by tomorrow, or by Tues. Jan. 8, 2019. If Mosaic needs more time, please let me know.

Thank you.

Have a good holiday season.

Michi  
(404) 562-9558

## Kono, Michiko

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**From:** Kono, Michiko  
**Sent:** Wednesday, December 19, 2018 3:30 PM  
**To:** 'Jagiella, Diana'  
**Cc:** White, Erika; Timsina, Gopal  
**Subject:** FW: Mosaic New Wales - Proposed Supplemental Environmental Projects

Diana – I'll try to call you today or tomorrow. Thank you. Michi (404) 562-9558

**From:** Kono, Michiko  
**Sent:** Wednesday, December 19, 2018 3:21 PM  
**To:** 'Jagiella, Diana' <Diana.Jagiella@mosaicco.com>  
**Cc:** White, Erika <White.Erika@epa.gov>; Timsina, Gopal <Timsina.Gopal@epa.gov>  
**Subject:** RE: Mosaic New Wales - Proposed Supplemental Environmental Projects

Diana – I received your email message. I hope to call you tomorrow. Are you in the office tomorrow?

**From:** Jagiella, Diana <Diana.Jagiella@mosaicco.com>  
**Sent:** Wednesday, December 19, 2018 2:03 PM  
**To:** Kono, Michiko <Kono.Michiko@epa.gov>  
**Subject:** Mosaic New Wales - Proposed Supplemental Environmental Projects

Dear Michi,

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Option (in order of preference)	SEP Category	Description	Good Faith Cost Estimate	Estimated Time for Project Completion
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		point). This project will replace all PRVs with this potential defect with an alternate PRV which does not exhibit this defect.		correspond with maintenance schedule)
Prilled Sulfur, Material Handling	Pollution Reduction (Category C or H)	Dust from prilled sulfur used in the process can travel outside of the handling area and into stormwater runoff system. This project would implement Best Management Practices within the adjacent drainage swale and material handling area to reduce the movement of sulfur dust.	~\$50,000-100,000	12 Weeks
Local Emergency Response Donation	Emergency Planning and Preparedness (Category G)	<p>Donation of Equipment Supplies to Polk County Fire and Rescue.</p> <p>Component 1: Drone for Hazmat Recon – to include drone, zoom camera and all associated accessories. Approx. Cost \$35,000.00</p> <p>Component 2: HazSim Pro 2.0 Training Aid - Simulates all gas, chemical and radioactive (CBRNE) environments. Hands-on, interactive simulator increases the effectiveness of training. Approx. Cost \$15,000.0</p>	Final Amount TBD, not to exceed \$50,000	12 Weeks

Happy Holidays, Diana



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**Sent:** Wednesday, December 19, 2018 3:21 PM  
**To:** 'Jagiella, Diana'  
**Cc:** White, Erika; Timsina, Gopal  
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		swale and material handling area to reduce the movement of sulfur dust.		
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**From:** Jagiella, Diana <Diana.Jagiella@mosaicco.com>  
**Sent:** Wednesday, December 19, 2018 2:03 PM  
**To:** Kono, Michiko  
**Subject:** Mosaic New Wales - Proposed Supplemental Environmental Projects  
**Attachments:** ATT00001.txt

Dear Michi,

As you know, the United States Environmental Protection Agency's (EPA) letter to Mosaic dated September 14, 2018 proposed to resolve the New Wales matter without litigation. As we discussed at our meeting on August 22, 2018, it is our intent to fully cooperate with EPA on this matter and settle the potential violations through the implementation of a Supplemental Environmental Project (SEP).

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**From:** Jagiella, Diana [Diana.Jagiella@mosaicco.com]  
**Sent:** 12/19/2018 7:02:58 PM  
**To:** Kono, Michiko [Kono.Michiko@epa.gov]  
**Subject:** Mosaic New Wales - Proposed Supplemental Environmental Projects  
**Attachments:** ATT00001.txt

Dear Michi,

As you know, the United States Environmental Protection Agency's (EPA) letter to Mosaic dated September 14, 2018 proposed to resolve the New Wales matter without litigation. As we discussed at our meeting on August 22, 2018, it is our intent to fully cooperate with EPA on this matter and settle the potential violations through the implementation of a Supplemental Environmental Project (SEP).

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**From:** Kono, Michiko [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C884926F69B14BA1992C0515E8E178A2-KONO, MICHIKO]  
**Sent:** 12/19/2018 8:30:23 PM  
**To:** Jagiella, Diana [Diana.Jagiella@mosaicco.com]  
**CC:** White, Erika [White.Erika@epa.gov]; Timsina, Gopal [Timsina.Gopal@epa.gov]  
**Subject:** FW: Mosaic New Wales - Proposed Supplemental Environmental Projects

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**From:** Kono, Michiko  
**Sent:** Wednesday, December 19, 2018 3:21 PM  
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**Cc:** White, Erika <White.Erika@epa.gov>; Timsina, Gopal <Timsina.Gopal@epa.gov>  
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**Subject:** Mosaic New Wales - Proposed Supplemental Environmental Projects

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Message

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**From:** Kono, Michiko [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C884926F69B14BA1992C0515E8E178A2-KONO, MICHIKO]  
**Sent:** 12/19/2018 8:24:43 PM  
**To:** White, Erika [White.Erika@epa.gov]  
**Subject:** RE: Mosaic New Wales - Proposed Supplemental Environmental Projects

Thank you for your email.

**From:** White, Erika  
**Sent:** Wednesday, December 19, 2018 3:24 PM  
**To:** Kono, Michiko <Kono.Michiko@epa.gov>  
**Cc:** Timsina, Gopal <Timsina.Gopal@epa.gov>; Caplan, Robert W. <Caplan.Robert@epa.gov>  
**Subject:** Re: Mosaic New Wales - Proposed Supplemental Environmental Projects

Michi I agree. Looks like the only one we would approve would be the last one.  
Erika

On Dec 19, 2018, at 2:45 PM, Kono, Michiko <[Kono.Michiko@epa.gov](mailto:Kono.Michiko@epa.gov)> wrote:

Deliberative Process Privilege; Attorney-Client Privilege; Enforcement Confidential – do not release under FOIA.

Sorry for the multiple emails.

I believe the GDC at CAA Section 112(r)(1) requires the company to replace the potentially defective equipment or parts b/c the company has a "general duty . . . to design and maintain a safe facility taking such steps as are necessary to prevent releases . . ."

I don't think the second project will work b/c nexus is not there (Erika – I think you already said this during the conference call w/ them).

The third project is okay, I think.

Is it all right to convey this info. to the attorney for Mosaic?

Thank you.

Michi

(Cc'ing Bob as an fyi – on thoughts about the projects as potential SEPs in the EPCRA case.)

**From:** Kono, Michiko  
**Sent:** Wednesday, December 19, 2018 2:14 PM  
**To:** Timsina, Gopal <[Timsina.Gopal@epa.gov](mailto:Timsina.Gopal@epa.gov)>; White, Erika <[White.Erika@epa.gov](mailto:White.Erika@epa.gov)>  
**Subject:** FW: Mosaic New Wales - Proposed Supplemental Environmental Projects

Attorney-client privilege; deliberative process privilege; enforcement confidential --- do not release.



My initial thoughts are – are the first two projects legally required? Is the facility in Mulberry, Florida an RMP facility for NH3?

Regarding the second project – is there nexus between the violation and the project? (I don't think there is). Also, is it legally required?

Thoughts?

Thank you.

**From:** Jagiella, Diana <[Diana.Jagiella@mosaicco.com](mailto:Diana.Jagiella@mosaicco.com)>  
**Sent:** Wednesday, December 19, 2018 2:03 PM  
**To:** Kono, Michiko <[Kono.Michiko@epa.gov](mailto:Kono.Michiko@epa.gov)>  
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The content image001.jpg of type has been blocked.



**From:** Kono, Michiko [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C884926F69B14BA1992C0515E8E178A2-KONO, MICHIKO]  
**Sent:** 12/19/2018 8:21:29 PM  
**To:** Jagiella, Diana [Diana.Jagiella@mosaicco.com]  
**CC:** White, Erika [White.Erika@epa.gov]; Timsina, Gopal [Timsina.Gopal@epa.gov]  
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Message

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**Sent:** 12/19/2018 8:00:27 PM  
**To:** White, Erika [White.Erika@epa.gov]; Timsina, Gopal [Timsina.Gopal@epa.gov]  
**Subject:** FW: Mosaic New Wales - Proposed Supplemental Environmental Projects  
**Attachments:** ATT00001.txt

Also, if the facility is Program 3 for ammonia under RMP, I believe they would be legally required to correct the defects under 40 CFR 68.73(e).

Please feel free to let me know if you disagree or have other feedback.

Thank you again.

Michi  
29558

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**From:** Kono, Michiko  
**Sent:** Wednesday, December 19, 2018 2:45 PM  
**To:** White, Erika <White.Erika@epa.gov>; Timsina, Gopal <Timsina.Gopal@epa.gov>  
**Cc:** Caplan, Robert W. <Caplan.Robert@epa.gov>  
**Subject:** FW: Mosaic New Wales - Proposed Supplemental Environmental Projects

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(Cc:ing Bob as an fyi – on thoughts about the projects as potential SEPs in the EPCRA case.)

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**From:** Kono, Michiko  
**Sent:** Wednesday, December 19, 2018 2:14 PM  
**To:** Timsina, Gopal <Timsina.Gopal@epa.gov>; White, Erika <White.Erika@epa.gov>  
**Subject:** FW: Mosaic New Wales - Proposed Supplemental Environmental Projects

Attorney-client privilege; deliberative process privilege; enforcement confidential --- do not release.

My initial thoughts are -- are the first two projects legally required? Is the facility in Mulberry, Florida an RMP facility for NH3?

Regarding the second project -- is there nexus between the violation and the project? (I don't think there is). Also, is it legally required?

Thoughts?

Thank you.

**From:** Jagiella, Diana <[Diana.Jagiella@mosaicco.com](mailto:Diana.Jagiella@mosaicco.com)>  
**Sent:** Wednesday, December 19, 2018 2:03 PM  
**To:** Kono, Michiko <[Kono.Michiko@epa.gov](mailto:Kono.Michiko@epa.gov)>  
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Happy Holidays, Diana



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**Sent:** 12/19/2018 7:19:04 PM  
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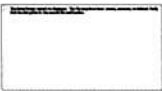


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**Sent:** 12/19/2018 7:52:54 PM  
**To:** White, Erika [White.Erika@epa.gov]; Timsina, Gopal [Timsina.Gopal@epa.gov]  
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		adjacent drainage swale and material handling area to reduce the movement of sulfur dust.		
Local Emergency Response Donation	Emergency Planning and Preparedness (Category G)	<p>Donation of Equipment Supplies to Polk County Fire and Rescue.</p> <p>Component 1: Drone for Hazmat Recon – to include drone, zoom camera and all associated accessories. Approx. Cost \$35,000.00</p> <p>Component 2: HazSim Pro 2.0 Training Aid - Simulates all gas, chemical and radioactive (CBRNE) environments. Hands-on, interactive simulator increases the effectiveness of training. Approx. Cost \$15,000.0</p>	Final Amount TBD, not to exceed \$50,000	12 Weeks

Happy Holidays, Diana



**Diana M Jagiella | Vice President, Chief Compliance Officer**  
The Mosaic Company | 3033 Campus Drive | #E490 | Plymouth, MN 55441  
Ph: 763.577.2784 | C: 763.226.4278 | E: [diana.jagiella@mosaicco.com](mailto:diana.jagiella@mosaicco.com)

Message

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**From:** White, Erika [White.Erika@epa.gov]  
**Sent:** 12/19/2018 8:23:42 PM  
**To:** Kono, Michiko [Kono.Michiko@epa.gov]  
**CC:** Timsina, Gopal [Timsina.Gopal@epa.gov]; Caplan, Robert W. [Caplan.Robert@epa.gov]  
**Subject:** Re: Mosaic New Wales - Proposed Supplemental Environmental Projects

Michi I agree. Looks like the only one we would approve would be the last one.  
Erika

On Dec 19, 2018, at 2:45 PM, Kono, Michiko <[Kono.Michiko@epa.gov](mailto:Kono.Michiko@epa.gov)> wrote:

Deliberative Process Privilege; Attorney-Client Privilege; Enforcement Confidential – do not release under FOIA.

Sorry for the multiple emails.

I believe the GDC at CAA Section 112(r)(1) requires the company to replace the potentially defective equipment or parts b/c the company has a "general duty . . . to design and maintain a safe facility taking such steps as are necessary to prevent releases . . . "

I don't think the second project will work b/c nexus is not there (Erika – I think you already said this during the conference call w/ them).

The third project is okay, I think.

Is it all right to convey this info. to the attorney for Mosaic?

Thank you.

Michi

(Cc:ing Bob as an fyi – on thoughts about the projects as potential SEPs in the EPCRA case.)

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**From:** Kono, Michiko  
**Sent:** Wednesday, December 19, 2018 2:14 PM  
**To:** Timsina, Gopal <[Timsina.Gopal@epa.gov](mailto:Timsina.Gopal@epa.gov)>; White, Erika <[White.Erika@epa.gov](mailto:White.Erika@epa.gov)>  
**Subject:** FW: Mosaic New Wales - Proposed Supplemental Environmental Projects

Attorney-client privilege; deliberative process privilege; enforcement confidential --- do not release.

My initial thoughts are -- are the first two projects legally required? Is the facility in Mulberry, Florida an RMP facility for NH3?

Regarding the second project – is there nexus between the violation and the project? (I don't think there is). Also, is it legally required?

Thoughts?



Thank you.

**From:** Jagiella, Diana <[Diana.Jagiella@mosaicco.com](mailto:Diana.Jagiella@mosaicco.com)>

**Sent:** Wednesday, December 19, 2018 2:03 PM

**To:** Kono, Michiko <[Kono.Michiko@epa.gov](mailto:Kono.Michiko@epa.gov)>

**Subject:** Mosaic New Wales - Proposed Supplemental Environmental Projects

Dear Michi,

As you know, the United States Environmental Protection Agency's (EPA) letter to Mosaic dated September 14, 2018 proposed to resolve the New Wales matter without litigation. As we discussed at our meeting on August 22, 2018, it is our intent to fully cooperate with EPA on this matter and settle the potential violations through the implementation of a Supplemental Environmental Project (SEP).

In our last telephone conference with EPA on November 27, 2018 Mosaic presented a number of options that could be completed to satisfy the SEP component of the potential settlement. As you advised, we understand that Mosaic will have to determine the final selected project. Nonetheless, we respectfully request EPA's feedback on the potential projects summarized below. We have listed them in our order of preference for this purpose.

Mosaic appreciates the Agency's continued assistance in this matter. Please contact me at (763-577-2784) with your thoughts.

**Mosaic Fertilizer, LLC – Mulberry Florida  
Supplemental Environmental Project (SEP) Options**

Option (in order of preference)	SEP Category	Description	Good Faith Cost Estimate	Estimated Time for Project Completion
Replacement of Ammonia Pressure Relief Valves	Pollution Prevention (Category C)	A defect has been identified in the current pressure relief valves (PRV) related to the O-ring, which causes the PRV to lift prematurely (before reaching set point). This project will replace all PRVs with this potential defect with an alternate PRV which does not exhibit this defect.	\$135,000- 200,000	18 Weeks (contingent on parts delivery by vendor to correspond with maintenance schedule)
Prilled Sulfur, Material Handling	Pollution Reduction (Category C or H)	Dust from prilled sulfur used in the process can travel outside of the handling area and into stormwater runoff system. This project would implement Best Management Practices within the adjacent drainage swale and material handling area to reduce the movement of sulfur dust.	~\$50,000- 100,000	12 Weeks
Local Emergency	Emergency Planning and Preparedness (Category G)	Donation of Equipment Supplies to Polk County Fire and Rescue.	Final Amount TBD, not to	12 Weeks

Response Donation		<p>Component 1: Drone for Hazmat Recon – to include drone, zoom camera and all associated accessories. Approx. Cost \$35,000.00</p> <p>Component 2: HazSim Pro 2.0 Training Aid - Simulates all gas, chemical and radioactive (CBRNE) environments. Hands-on, interactive simulator increases the effectiveness of training. Approx. Cost \$15,000.0</p>	exceed \$50,000
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Happy Holidays, Diana



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Ph: 763.577.2784 | C: 763.226.4278  
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NINTH EXTENSION TO TOLLING AGREEMENT  
FOR CLAIMS UNDER CLEAN AIR ACT  
RELATING TO THE MOSAIC COMPANY'S PLANT CITY, FLORIDA FACILITY

The United States, on behalf of the United States Environmental Protection Agency and The Mosaic Company, together with Mosaic Fertilizer, LLC ("Mosaic") (collectively "the Parties") enter into this Ninth Extension to Tolling Agreement to facilitate settlement negotiations between the Parties with respect to potential violations of the Clean Air Act, 42 U.S.C. § 7401 *et seq.*, regulations promulgated under the Act, and the Florida State Implementation Plan, at Mosaic's phosphate fertilizer production facility in Plant City, Florida (the "Plant"), and potential claims arising therefrom (the "Tolled Claims"), without thereby altering the claims or defenses available to any Party hereto, except as specifically provided herein. On March 17, 2014, Mosaic completed its acquisition of the Plant from CF Industries, Inc. ("CFI"). A separate, Thirteenth Extension of Tolling Agreement has been executed in this matter between EPA and CFI.

The Parties, in consideration of the covenants set out herein, agree as follows:

1. Except as provided in Paragraph 6 of this Tolling Agreement, the period commencing on March 17, 2014, and ending on June 30, 2019, inclusive (the "Tolling Period"), shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States on the Tolled Claims.
2. Any defenses of laches, estoppel, or waiver, or other similar equitable defenses based upon the running or expiration of any time period shall not include the Tolling Period for the Tolled Claims.
3. Mosaic shall not assert, plead, or raise against the United States in any fashion, whether by answer, motion or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time during the Tolling Period in any action brought on the Tolled Claims.
4. This Tolling Agreement does not constitute any admission or acknowledgement of any fact, conclusion of law, or liability by any Party to this Tolling Agreement. Nor does this Tolling Agreement constitute any admission or acknowledgment on the part of the United States that any statute of limitations, or similar defense concerning the timeliness of commencing a civil action, is applicable to the Tolled Claims. The United States reserves the right to assert that no statute of limitations applies to any of the Tolled Claims and that no other defense based upon the timeliness of commencing a civil action is applicable.
5. This Tolling Agreement may not be modified except in a writing signed by all the Parties. The Parties acknowledge that this Tolling Agreement may be extended for such period of time as the Parties agree to in writing.
6. It is understood that the United States may terminate settlement negotiations and commence suit at any time, upon provision of written notice by mail to Mosaic.

Where the United States elects to terminate negotiations under this Paragraph, the Tolling Period shall continue until the earlier of forty-five (45) days after termination, or the date that the United States files a complaint against Mosaic. Nothing herein shall preclude the commencement of any action by the United States to protect the public health, welfare, or the environment without provision of advance notice.

7. This Tolling Agreement does not limit in any way the nature or scope of any claims that could be brought by the United States in a complaint against Mosaic, or the date on which the United States may file such a complaint, except as expressly stated herein.

8. This Agreement is not intended to affect any claims by or against third parties.

9. Mosaic shall preserve and maintain, during the pendency of the Tolling Period, and for a minimum of 90 days after termination of the Tolling Period, at least one legible copy of all documents and other materials subject to discovery under the Federal Rules of Civil Procedure and relating to the Trolled Claims, regardless of any corporate or document retention policy to the contrary.

10. This Tolling Agreement is effective upon execution by Mosaic, and without the requirement of filing with the Court, and may be signed in counterparts.

11. This Tolling Agreement contains the entire agreement between the Parties, and no statement, promise, or inducement made by any Party to this Tolling Agreement that is not set forth in this Tolling Agreement shall be valid or binding, nor shall it be used in construing the terms of this Tolling Agreement as set forth herein.

12. The undersigned representative of each of the Parties certifies that he or she is fully authorized to enter into the terms and conditions of this Tolling Agreement and to legally bind such party to all terms and conditions of this document. This Agreement shall be binding upon the United States, acting on behalf of the United States Environmental Protection Agency, and upon Mosaic and its successors.

#### SIGNATURES

The United States, on behalf of the United States Environmental Protection Agency, consents to the terms and conditions of this Tolling Agreement by its duly authorized representatives on this \_\_\_\_ day of December 2018.

By:

\_\_\_\_\_  
Henry Friedman  
Assistant Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice

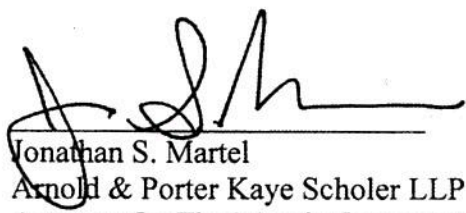


By:

Robert W. Caplan  
Senior Attorney  
U.S. Environmental Protection Agency – Region 4

The Mosaic Company consents to the terms and conditions of this Tolling Agreement by its duly authorized representative on this 18 day of December 2018.

By:

  
Jonathan S. Martel  
Arnold & Porter Kaye Scholer LLP  
Attorney for The Mosaic Company and  
Mosaic Fertilizer, LLC

